



τ"οΣ Intro

Today we will בע"ה learn דף ס"ה of סכת יבמות יבמות The topics we will learn about include.

Various situations of a woman who does not have children, and her claims for her Kesubah

A Machlokes whether a woman is obligated in מצות פרו

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Various situations of a woman who does not have children, and her claims for her Kesubah



Whether a woman is obligated in

מצות פרו ורבו

В

Other valid claims of a woman for wanting children





Other valid claims of a woman for wanting children



Dedicated By:





So let's review

The Gemara continues with the Halachos regarding a woman who does not bear children:

The Braisa says

ניסת לראשון ולא היו לה בנים

לשני ולא היו לה בנים

If a woman was married twice, and did not have children, לשלישי לא תנשא

אלא למי שיש לו בנים

She may only get married a third time to a man who already has children. This is because the first two marriages created a חזקה that she cannot have children.

נישאת למי שאין לו בנים תצא בלא כתובה

If she married a third time to a man who does not have children, He must divorce her, and she is not entitled to a Kesubah, because it's assumed to be her problem.



However, the first two husbands did pay her כתובה, because the חזקה was not yet established.

Therefore, the Gemara presents a question:

נישאת לשלישי

ולא היו לה בנים

In a case where she married a third husband and did not have children with him either;

מהו דליתבעוה הנך קמאי

Can her previous husbands claim the Kesubos which they paid her?

מי מצו אמרי לה

אגלאי מילתא דאת הוא דגרמת

Can they claim that it's been shown that she had a problem all along, and she has to return the Kesubah?

או דלמא מצית אמרת להו

השתא הוא דכחשי

Or, she can claim that the problem only occurred now, during the third marriage, and she does not have to return the Kesubah?

The Gemara answers

מסתברא מצית אמרה להו

השתא הוא דכחשי להו

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It's logical that she can claim that the problem only occurred now, and she does not have to return the Kesubah to the first two husbands.

Now, we must remember that she did not get her Kesubah from the third husband, because, based on the חזקה, it was assumed to be her problem.









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Therefore, the Gemara presents another question; איבעיא להו נישאת לרביעי והיו לה בנים

In a case where she married a fourth husband and they had children,

מהו דתיתבעיה לשלישי

Can she now claim her Kesubah from the third husband, claiming that it's been shown that she's capable of having children?

The Gemara answers;

אמרינן לה

שתיקותך יפה מדיבורך

דמצי אמר לה אנא אדעתא דהכי לא גרשתיך

We tell her she is better off remaining silent, since the third husband can claim, I would not have divorced you, had I known that you can have children. As Rashi explains;

ונמצא גט בטל למפרע

This would nullify the גט בטעות, and render her children ממזרים.



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Rav Papa asks

אי איהי שתקה אנן מי שתקינן? נמצא גט בטל ובניה ממזרין?

Even if she does not make this claim, how can we be silent?

The גו is indeed null and void, and her children are מסודרים? Therefore, as Rashi explains, it must be that he has no such claim, because, knowing that her problem was indefinite, he certainly divorced her without reservation.

אלא אמרינן השתא הוא דברייתא

However, she cannot claim her Kesubah from the third husband, based on her having children in the fourth marriage, because perhaps her problem did exist during the third marriage, and was healed during the fourth marriage.

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The Gemara continues with several Halachos: In a case of a couple who did not have children and are getting divorced, and they're arguing about the כתובה.

והיא אמרה מיניה

He claims that she has a privately-known physical problem, while she claims that he has a privately-known physical problem.

אמר רבי אמי דברים שבינו לבינה נאמנת

Rebbe Ami says that she is believed in these private matters, because,

היא קיימה לה ביורה כחץ הוא לא קים ליה ביורה כחץ

She can sense the problem, while he cannot sense the problem - And he must pay the Kesubah.



However, the Gemara continues to ask; אמר איהו איזיל אינסיב איתתא ואיבדוק נפשאי What if he claims that he will marry another woman and prove that it is not his problem?

אמר רבי אמי אף בזו יוציא ויתן כתובה He still must pay her Kesubah, שאני אומר כל הנושא אשה על אשתו יוציא ויתן כתובה

Because, one may not marry a second wife without his first wife's consent – and if he wants to marry another wife, he must divorce his first wife and pay for her Kesubah.

רבא אמר נושא אדם כמה נשים על אשתו והוא דאית ליה למיזיינינהי

Rava disagrees and says that one may marry numerous wives without the other's consent, as long as he can provide for all their needs.

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The Mishanh on דף סד taught;

ואם הפילה

מונה משעה שהפילה

If she had a miscarriage, the wait time begins anew from that time.

Therefore, as Rashi explains, the Gemara asks a Shaila in a case where the בית דין is compelling them to divorce after ten years of marriage and no children;

הוא אמר אפלת בגו עשר

והיא אמרה לא אפלית

He claims that she miscarried at some point, and therefore, they do not need to divorce yet - and she claims that she never miscarried, and they must divorce now? א"ר אמי

אף בזו היא נאמנת

דאם איתא דהפילה

נפשה בעקרתה לא מחזקא

She is believed, because if she truly miscarried, she would never claim to be barren.

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A similar Shailah; הפילה וחזרה והפילה וחזרה והפילה If she had three miscarriages הוחזקה לנפלים, she has a Chazaka of miscarrying, and he must divorce her.

הוא אמר אפילה תרי והיא אמרה תלת

What if he claims that she only had two miscarriages, while she claims that she already had three miscarriages?

עובדא היא מהימנא עובדא הוי בי מדרשא אמרו היא מובדא There was an incident where it was ruled that she is

believed. דאם איתא דלא אפלת נפשה בניפלי לא מחזקא

Because if she truly did not miscarry a third time, she would not want to create a Chazaka of miscarrying.

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Zogt Di Mishna

האיש מצווה על פריה ורביה

אבל לא האשה

A man is obligated in the Mitzvah of having children, but a woman is not obligated.

רבי יוחנן בן ברוקה אומר

על שניהם הוא אומר

ויברך אותם אלקים

ויאמר להם פרו ורבו

They are both equally obligated, because the Posuk is expressed in a plural form, to both אדם וחוה.

As to the source of the Tana Kama, the Gemara cites the following Posuk;

ומלאו את הארץ וכבשוה

By having children, they will conquer the land.

איש דרכו לכבוש

ואין אשה דרכה לכבוש

Since it is only the manner of a man to conquer, but not the manner of a woman, therefore, the obligation of מצות is upon a man, and not upon a woman

רב יוסף אמר מהכא

Rav Yosef derived the source from the Pasuk where Hashem said to יעקב אבינו;

אני אל שדי פרה ורבה

ולא קאמר פרו ורבו

In singular from, not in plural form

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The Gemara continues

אתמר

רבי יוחנן ור' יהושע בן לוי

חד אמר הלכה כרב יוחנן בן ברוקה

וחד אמר אין הלכה כרב יוחנן בן ברוקה

One Paskens like Rebbe Yochanan Ben Broka that a woman is מחויב בפריה - and one Paskens like the Tana Kama that a woman is פטור מפריה ורביה -

מאי הוי עלה

What is the final ruling?

עובדא הוי קמיה דרבי יוחנן ואמר יוציא ויתן כתובה

We can derive it from an incident of a couple who did not have children, in which it was definitely his problem.

However, Rabbi Yochanan ruled that she can demand a divorce, and receive a Kesubah.

ואם ס"ד לא מפקדא

כתובה מאי עבידתא

If she is פטור מפריה ורביה, why does she receive a Kesubah? Since she had no claim for a divorce, she's not entitled to a Kesubah. Therefore, it must be that Reb Yochanan holds that a woman is מחויב בפריה ורביה.



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The Gemara answers;

דלמא בבאה מחמת טענה

This is not a proof, because although she is פטור מפריה, she has another legitimate claim:

As we see in a similar incident

אמר לה זיל לא מיפקדת

Where a woman was told that she has no claim, because she's not מחויב,

אמרה ליה

מסיבו דילה

מאי תהוי עלה דהך אתתא

She answered that she needs children who will care for her in her old age.

אמר כי הא ודאי כפינן

They ruled in her favor, that he must divorce her and pay her Kesubah.











There was also another incident in which אמרה ליה

לא בעיא הך אתתא

חוטרה לידה ומרה לקבורה

She claimed that she needs children who will support her, and tend to her burial.

אמר כי הא ודאי כפינן

They ruled in her favor, that he must divorce her and pay her Kesubah.

הדרך עלך הבא על יבמתו

We have B"H completed the Sixth Perek of מסכת, מסכת יבמות, and will begin the Seventh Perek אלמנה לכהן גדול in the next Daf B'ezras Hashem.





